

<p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	<p>Policy Number</p> <p style="text-align: center;">6.1</p> <p>Date Filed</p> <p style="text-align: center;">June 3, 2005</p>	<p>Total Pages</p> <p style="text-align: center;">5</p> <p>Effective Date</p> <p style="text-align: center;">September 20, 2005</p>
<p>References</p> <p>KRS 61.870 - 61.884, 196.035, 197.020, 197.025, 422.317, 439.510, 519.060; ACA 4-4021, 4-4095, 4-4098, 4-4099 P & P ACA 3-3070 and 3-3226</p>	<p>Subject</p> <p style="text-align: center;">OPEN RECORDS LAW</p>	

I. AUTHORITY

This policy and procedure is issued in accordance with the provisions of KRS 196.035 and 197.020, which authorize the Commissioner of the Department of Corrections (Corrections) to adopt, amend or rescind regulations necessary for the proper administration of Corrections.

II. PURPOSE

To establish the appropriate procedure for requesting the release of public records by state and local government agencies or departments in accordance with the Open Records Act.

III. APPLICABILITY

This policy shall apply to all employees of Corrections and contract facilities.

IV. POLICY

It is the policy of Corrections that all non-exempt public records which are prepared, owned, used, possessed or retained in the normal course of business, shall be made available for: (a) inspection, upon receipt of a properly submitted written request; or (b) copying upon receipt of a properly submitted written request and the appropriate fee.

V. DEFINITIONS

As used in this document, the following definitions shall apply:

"Coordinator" means the individual designated by the Warden at each institution to receive, date and forward an open records request to the appropriate custodian for processing.

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"Custodian" means the official custodian or any authorized person having personal custody and control of a public record.

"Fee" means the copy cost of ten cents per page or the cost of the media used for disclosure of information.

"Information" means sharing knowledge or facts regarding a specific document, event, situation or condition.

"Media" means the physical material in or on which a record may be stored or represented, and may include, paper, microform, disk, diskette, optical disk, magnetic tape and card.

"Principal office" means the Department of Corrections, Health Services Building, 275 East Main Street, P. O. Box 2400, Frankfort, Kentucky 40602-2400. The office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

"Public agency" is defined in KRS 61.870(1).

"Public record" is defined in KRS 61.870(2).

"Official custodian" is defined in KRS 61.870(5). A complete listing of the official custodians for Corrections is set forth in Attachment A.

"Request" means a written document from the public or an inmate that requests the opportunity to inspect or copy a non-exempt public record.

VI. PROCEDURES

A. Requests received from the public sector

To inspect or obtain a copy of a document in the possession of the principal office or an institution, the following shall apply:

1. A written request containing the following information shall be presented to the coordinator or custodian:
 - a. name and address; and
 - b. a reasonably particular description of the public record being requested.
2. Within five (5) working days of receipt of a request, the custodian or the coordinator shall forward a response that shall include:

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- a. the name of the individual making the request;
- b. the date the request is received;
- c. the name of the custodian or coordinator responding to the request;
- d. the date of the initial or final response; and
- e. (1) the amount of the fee and directions that the fee shall be paid by check or money order made payable to the Kentucky State Treasurer; or
(2) if the individual receiving the request does not have custody and control of the public record, a statement containing that fact and the name and location of the correct custodian.

3. If the public record is in use, storage, or not readily available, refer to KRS 61.872(5).
4. The fee shall be paid to the custodian or his designee prior to the release of a copy of the public record. If the record is requested in a non-standard form, the custodian may recover staff preparation costs.
5. Notes may be taken during inspection of a public record.

B. Requests received from the inmate population

An inmate housed in a jail, state or private facility or an offender on active supervision, may inspect or obtain a copy of a public record that pertains to him in the possession of the principal office or an institution.

1. A Request to Inspect Public Records shall be obtained from the office or individual designated by the Warden of each institution and shall contain the following information:
 - a. the inmate's name and institution number,
 - b. cell, room or housing assignment, and
 - c. a reasonably particular description of the record being requested.
2. The request shall be forwarded either:
 - a. by institutional mail to the coordinator; or

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b. by first class regular mail to the custodian of the agencies records.

* Hand delivery of an open records request shall not be permitted.

3. A response shall be processed as set forth above.

4. If an inmate wants a copy of a public record, he shall also file an Authorization to Use Inmate Account form.

a. If the inmate does not have sufficient funds for payment of the fee, he may request the opportunity to inspect the record, or

b. He may re-file his request upon receipt of sufficient funds to cover payment of the fee.

C. Responsibilities of the Coordinator

1. The coordinator shall:

a. date stamp and log in all requests upon receipt;

b. immediately forward the request to the custodian for a response; and

c. ensure that all responses are recorded on the log sheet in a timely manner.

2. The coordinator shall not be responsible for responding to the request, unless he is the custodian of the requested record.

D. Denials, Restrictions and Waivers

1. If a request is denied, a response shall:

a. be given within five (5) working days; and

b. include an explanation for the denial, including the applicable statute and subsection which supports the reason for the denial.

2. A general or blanket request may be denied by the custodian. The individual or organization shall be given the opportunity to amend the request to describe the document with reasonable particularity.

3. A request for information shall be denied.

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4. A request for a compilation or list of records shall be denied if the request requires a compilation or listing that does not exist and is not expected to exist in the future.
5. Any repeated or duplicative requests for a public record shall be reviewed on a case by case basis before making a decision. If the request is for a public record from an inmate file, it shall be faxed to principal office Offender Information for review.
6. Any request for medical or psychological records shall be processed through the medical and mental health professionals and, if necessary, the Office of Legal Services. If an institution does not have a mental health professional available to review a request, the request shall be forwarded to the nearest institution that has a mental health professional available for review and response.
7. Any waiver of fees for law enforcement or other government agency shall be made on a case by case basis. Any request regarding a record from inmate files shall be reviewed by the principal office Offender Information.
9. Staff handling requests for public records may seek advice from the Office of Legal Services.

E. Employee Responsibility

1. Any record generated by an employee in the normal course of business is the property of Corrections.
2. Administrative, fiscal, personnel and inmate files shall not be removed by an employee unless he receives prior written approval of the appointing authority or his designee or is ordered to produce the file in court or to a staff attorney in the Office of Legal Services.
3. If an employee removes a file in violation of this policy, he may be subject to disciplinary action, up to and including dismissal or referral to outside authorities for prosecution under KRS 519.060.

DEPARTMENT OF CORRECTIONS

OFFICIAL CUSTODIANS

CENTRAL OFFICE

Official Custodian:	Commissioner
Custodian/Client Records:	Branch Manager/Offender Information
Custodian/Administrative Records:	Director of Administrative Services

KENTUCKY STATE PENITENTIARY

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Deputy Warden/Support Services
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

KENTUCKY STATE REFORMATORY

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Deputy Warden/Administration
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

KENTUCKY CORRECTIONAL INSTITUTION FOR WOMEN

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

BLACKBURN CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

EASTERN KENTUCKY CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

BELL COUNTY FORESTRY CAMP

Official Custodian:	Warden
Custodian/Client Records:	Network Analyst
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

ROEDERER CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

FRANKFORT CAREER DEVELOPMENT CENTER

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

WESTERN KENTUCKY CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Business Manager
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

GREEN RIVER CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Deputy Warden/Programs
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

NORTHPOINT TRAINING CENTER

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Deputy Warden/Programs
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

LUTHER LUCKETT CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Deputy Warden/Programs
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

LITTLE SANDY CORRECTIONAL COMPLEX

Official Custodian:	Warden
Custodian/Client Records:	Offender Information Supervisor
Custodian/Administrative Records:	Deputy Warden/Programs
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

MARION ADJUSTMENT CENTER

Official Custodian:	Warden
Custodian/Client Records:	Records Supervisor
Custodian/Administrative Records:	Associate Warden/Program
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

LEE ADJUSTMENT CENTER

Official Custodian:	Warden
Offender Information Supervisor:	Records Supervisor
Custodian/Administrative Records:	Associate Warden/Operations
Custodian/Medical Records:	Chief Medical Officer/Hospital Administrator

KRS 61.872 Right to inspection; limitation

- (1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.
- (2) Any person shall have the right to inspect public records. The official custodian may require written application, signed by the applicant and with his name printed legibly on the application, describing the records to be inspected. The application shall be hand delivered, mailed, or sent via facsimile to the public agency.
- (3) A person may inspect the public records:
 - (a) During the regular office hours of the public agency; or
 - (b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to a person whose residence or principal place of business is outside the county in which the public records are located after he precisely describes the public records which are readily available within the public agency. If the person requesting the public records requests that copies of the records be mailed, the official custodian shall mail the copies upon receipt of all fees and the cost of mailing.
- (4) If the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.
- (5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection.
- (6) If the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section shall be sustained by clear and convincing evidence.

HISTORY: 1994 c 262, § 3, eff. 7-15-94; 1992 c 163, § 3, eff. 7-14-92; 1976 c 273, § 2